

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 09/763,409

REMARKS

Claims 10-28 are all the claims pending in the application.

Review and Reconsideration of the claims on the merits are respectfully requested.

Formal Matters

Applicants appreciate that the Examiner has returned an initialed and signed IDS previously filed on February 22, 2001.

Priority

Applicants submit herewith a translation of the corresponding Japanese application under 37 CFR 1.55 in reply to this Office Action in order to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d).

Election/Restrictions

Applicants appreciate that the Examiner has acknowledged Applicants' election of Group I, Claims 10-25 and 28. The Examiner has stated that Claims 26 and 27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

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Claim Objections

Claims 12 and 13 are amended to correct the certain informalities as suggested by the Examiner: “3 m₂/g” has been changed to --3 m²/g--. Entry of the Amendment is hereby requested along with withdrawal of the Examiner’s objection.

Claim Rejections – 35 USC § 112

Claims 16-19 have been rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The Examiner states that Claims 16 and 17 both recite the limitation “weight average particle diameter” in line 2 of the claims. The implication of a “weight average” to the claimed “particle diameter” is not immediately understood by the Examiner, as the respective limitations are drawn to a mass unit and a length unit, respectively.

The Examiner has rejected Claims 18 and 19 under 35 U.S.C. 112, second paragraph as allegedly being dependent upon a rejected base claim.

Applicants respond as follows.

Applicants submit that the phrase “weight average particle diameter” is clear to one skilled in the art. This term means that average diameter of particles are calculated on the basis of weight of particles (i.e. volume-average or mass-average), not on the basis of numbers of particles. In number-average particle diameter, the particles having small size contribute to the calculation and the value of the average tends to become smaller than that obtained by weight

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basis. These terms are similarly used in the field of Polymers, such as “weight-average molecular weight” and “number-average molecular weight”.

The term is disclosed in the specification, for example, at the last paragraph bridging pages 13 and 14. Since flake graphite particles for use in the present invention include graphite particles obtained from both natural and artificial graphite sources, the resulting amount of impurities and the different shapes of the flake graphite particles must be taken into consideration. Applicants take into consideration such impurities and different graphite particle shapes other than flake shape by using the term “weight average particle diameter”. The particle diameter of the flake graphite particles for use in the present invention is measured by the laser diffraction method which takes into consideration both the weight of all the various particles and their diameters to obtain an average particle diameter.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112.

Claim Rejections – 35 USC § 102

Claims 10, 11, 21-25 and 28 are rejected under 35 U.S.C. 102(e) as allegedly being unpatentable by Yoon et al. (U.S. 6,482,547 B1) for the reasons given in the Office Action.

Applicants respond that Yoon et al is not a proper reference against this PCT Application in the National Stage. Having perfected their claim to priority by submitting a certified English translation of the corresponding Japanese Application which was filed on August 27, 1998,

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Applicants antedate the Yoon et al reference which was filed on May 21, 1999. Therefore, Yoon et al is not a proper reference for the Examiner to assert against this application.

Accordingly, Applicants respectfully request withdrawal of Yoon et al as a reference against this application and withdrawal of the rejection under 35 U.S.C. § 102. Applicants respectfully submit that with the removal of Yoon et al, the allowance of Claims 10, 11, 21-25 and 28 is now in order and is earnestly requested.

Claim Rejections – 35 U.S.C. § 103

Claims 12-19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Yoon et al. as applied to claims 10, 11, 20-25 and 28 above, in view of Takami et al. (U.S. Pat. 5,340,670) for the reasons given in the Office Action.

Applicants respond that, as detailed above under anticipation rejections, Applicants have effectively antedated the reference to Yoon et al, and therefore, this rejection based on Yoon et al must also be withdrawn.

Accordingly, Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 and earnestly request allowance of claims 12-19.

Conclusion

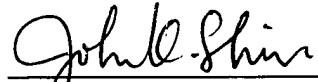
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

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Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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